

BILL ANALYSIS

Senate Research Center
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S.B. 235
By: Harris
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DIGEST AND PURPOSE

Under current Texas law the ownership of dangerous wild animals, such as tigers, lions, and bears, is not regulated. Previous statutes that were in place requiring the Texas Parks and Wildlife Department to regulate the ownership of such animals were repealed in 1997. As proposed, S.B. 235 provides for the regulation of dangerous wild animals by cities and counties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Board of Health in SECTION 1 (Section 822.111, Health and Safety Code) and SECTION 4 (Subsection (d)) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 822, Health and Safety Code, by adding Subchapter E, as follows:

SUBCHAPTER E. DANGEROUS WILD ANIMALS

Sec. 822.101. DEFINITIONS. Defines “animal registration agency,” “board,” “dangerous wild animal,” “owner,” “person,” “primary enclosure,” and “wildlife sanctuary.”

Sec. 822.102. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter does not apply to:

- a county, municipality, or agency of the state or and agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;
- a research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132) and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act;
- an organization that is an accredited member of the American Zoo and Aquarium Association;
- a wildlife sanctuary;
- an injured, infirm, orphaned, or abandoned dangerous wild animal (DWA) while being transported for care or treatment;
- an injured, infirm, orphaned, or abandoned DWA while being rehabilitated, treated, or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Chapter 43C (Permits for Scientific Research, Zoological Collection, Rehabilitation, and Educational Display), Parks and Wildlife Code;

- a DWA owned by and in the custody and control of a transient circus company that is not based in this state if certain criteria are met;
- a DWA while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;
- a DWA owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;
- a DWA while being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act; and
- a nonhuman primate owned by and in control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class “A” or Class “B” dealer’s license issued by the secretary of agriculture of the United States under 7 U.S.C. Section 2.31 et seq. and its subsequent amendments.

Sec. 822.103. CERTIFICATE OF REGISTRATION; FEES. (a) Prohibits a person from owning, harboring, or having custody or control of a DWA for any purpose unless the person holds a certificate of registration for that animal issued by a DWA registration agency (registration agency).

(b) Provides that a certificate of registration issued under this subchapter is not transferrable and is valid for one year after its date of issuance or renewal unless revoked.

(c) Authorizes the registration agency to establish and charge reasonable fees for application, issuance, and renewal of certificate of registration in order to recover the costs associated with the administration and enforcement of this subchapter. Authorizes the fees collected under this section to be used only to administer and enforce this subchapter.

Sec. 822.104. CERTIFICATE OF REGISTRATION APPLICATION. (a) Requires an applicant for an original or renewal certificate of registration for a DWA to file an application with a registration agency on a form provided by the registration agency.

(b) Requires the application to include certain specified information.

(c) Requires the applicant to include certain specific items with each application.

(d) Requires an application for renewal to include, in addition to the items required under Subsection (c), a statement signed by a veterinarian licensed to practice in this state stating that the veterinarian: inspected each animal being registered not earlier than the 30th day before the date of the filing of the renewal application; and finds that the care and treatment of each animal by the owner meets or exceeds the standards prescribed under this subchapter.

Sec. 822.105. DENIAL OR REVOCATION OF CERTIFICATE OF REGISTRATION; APPEAL. (a) Requires the registration agency, if the registration agency finds that an application for an original or renewal certificate of registration under this subchapter does not meet the requirements of Section 822.104 or, after inspection, that an applicant has not

complied with this subchapter, to deny the applicant a certificate of registration and give the applicant written notice of the denial and the reasons for the denial.

(b) Requires the registration agency, if the registration agency finds, after inspection, that a registered owner provided false information in or in connection with the application or has not complied with this subchapter, to revoke the certificate of registration and give the owner written notice of the revocation and the reasons for the revocation.

(c) Authorizes a person to appeal the denial of an original or renewal certificate of registration or the revocation of a certificate of registration to the justice court for the precinct in which the animal is located or the municipal court in the municipality in which the animal is located not later than the 15th day after the date the certificate of registration is denied or revoked. Authorizes either party to appeal the decision of the justice or municipal court to a county court at law in the county in which the justice or municipal court is located. Prohibits the decision of the county court at law from being appealed.

(d) Provides that the filing of an appeal of the denial or revocation of certificate of registration under Subsection (c) stays the denial or revocation until the court rules on the appeal.

Sec. 822.106. **DISPLAY OF CERTIFICATE OF REGISTRATION.** Requires a holder of a certificate of registration to prominently display the certificate at the premises where each animal that is the subject of the certificate of registration is kept.

Sec. 822.107. **LIABILITY INSURANCE.** Requires an owner of a DWA to maintain liability insurance coverage in an amount not less than \$100,000 for each occurrence for liability for damages for destruction of or damage to property and death or bodily injury to a person caused by the DWA.

Sec. 822.108. **INSPECTION.** Requires an owner of a DWA, at all reasonable times, to allow the registration agency, its staff, its agents, or a designated licensed veterinarian to enter the premises where the animal is kept and to inspect the animal, the primary enclosure for the animal, and the owner's records relating to the animal to ensure compliance with this subchapter.

Sec. 822.109. **RELOCATION OR DISPOSITION OF ANIMAL.** (a) Prohibits an owner of a DWA from relocating the animal unless the owner first notifies the registration agency in writing of the exact location to which the animal will be relocated and provides the registration agency, with respect to the new location, the information required by Section 822.104.

(b) Requires an owner of a DWA to notify the registration agency in writing before the sale or other disposition of the animal.

Sec. 822.110. **ATTACK BY ANIMAL; ESCAPE OF ANIMAL; LIABILITY.** (a) Requires an owner of a DWA to immediately notify the registration agency of any attack of a human by the animal.

(b) Requires an owner of a DWA to immediately notify the registration agency and the local law enforcement agency of any escape of the animal.

(c) Provides that an owner of a DWA that escapes is liable for all costs incurred in apprehending and confining the animal.

(d) Provides that a registration agency, a law enforcement agency, or an employee of a registration agency or law enforcement agency is not liable to any person for damages arising in connection with the escape of a DWA, including liability for damage, injury, or death caused by the animal during or after the animal's escape, or for injury to or death of the animal as a result of apprehension or confinement of the animal after escape.

Sec. 822.111. POWERS AND DUTIES OF BOARD; CAGING REQUIREMENTS AND STANDARDS. (a) Requires the Texas Board of Health (board) to establish, by rule, caging requirements and standards for the keeping and confinement of a DWA to ensure that the animal is kept in a manner and confined in a primary enclosure that meets certain criteria.

(b) Requires an owner of a DWA to keep and confine the animal in accordance with the caging requirements and standards established by the board.

(c) Authorizes a registration agency to approve a deviation from the caging requirements and standards established by the board, only if certain criteria are met.

Sec. 822.112. CARE, TREATMENT, AND TRANSPORTATION OF ANIMAL. (a) Requires the owner, for each DWA, to comply with all applicable standards of the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act relating to facilities and operations, animal health and husbandry, and veterinary care.

(b) Requires an owner of a DWA to maintain a separate written log for each dangerous wild animal documenting the animal's veterinary care. Requires an owner to make the log available to the registration agency or its agent on request. Requires the log to contain certain specific information.

(c) Requires the owner of the DWA, or a designated carrier or intermediate handler of the animal, when transporting a DWA, to comply with all transportation standards that apply to that animal under 7 U.S.C. Section 2131 et seq. and its subsequent amendments or the regulations adopted under that Act.

Sec. 822.113. OFFENSE AND PENALTY. (a) Provides that a person commits an offense if the person violates Section 822.103(a). Provides that each animal with respect to which there is a violation and each day that a violation continues is a separate offense.

(b) Provides that an offense under Subsection (a) is a Class C misdemeanor.

(c) Provides that a person commits an offense if the person knowingly sells or otherwise transfers ownership of a DWA to a person who does not have a certificate of registration for that animal as required by this subchapter.

(d) Provides that an offense under Subsection (c) is a Class B misdemeanor.

Sec. 822.114. CIVIL PENALTY. (a) Provides that a person who violates Section 822.103(a) is liable for a civil penalty of not less than \$200 and not more than \$2,000 for each animal with respect to which there is a violation and for each day the violation continues.

(b) Authorizes the county or municipality in which the violation occurs to sue to collect a civil penalty. Authorizes a civil penalty collected under this subsection to be retained by the county or municipality.

(c) Authorizes the county or municipality in which the violation occurs to also recover the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert

witness fees incurred by the registration agency in the civil action. Requires the costs or fees recovered under this subsection to be credited to the operating account from which payment for the registration agency's expenditures was made.

Sec. 822.115. INJUNCTION. Authorizes any person who is directly harmed or threatened with harm by a violation of this subchapter or a failure to enforce this subchapter to sue an owner of a DWA to enjoin a violation of this subchapter or to enforce this subchapter.

Sec. 822.116. EFFECT OF SUBCHAPTER ON OTHER LAW. (a) Provides that this subchapter does not affect the applicability of any other law, rule, order, ordinance, or other legal requirements of this state or a political subdivision of this state.

(b) Provides that this subchapter does not prevent a municipality or county from prohibiting or regulating by ordinance or order the ownership, possession, confinement, or care of a DWA.

SECTION 2. Amends Section 240.002(a), Local Government Code, to authorize the commissioners court of a county to prohibit or regulate, by order, the keeping of a wild animal in the county, rather than at a residence or within 1,000 feet of a residence or public school.

SECTION 3. Repealer: Section 240.0025 (Regulation), Local Government Code.

SECTION 4. (a) Effective date: September 1, 2001, except as provided by this section.

(b) Provides that a person is not required to obtain a certificate of registration for a DWA under Chapter 822E, Health and Safety Code, as added by this Act, before June 1, 2002.

(c) Requires each municipality and county, not later than December 1, 2001, to adopt any ordinance or order necessary to implement and administer the certificate of registration program created by Chapter 822E, Health and Safety Code, as added by this Act, including ordinances or orders relating to the applications for original and renewal certificates or registration, fees for registration and renewal, and the form and content of the application and the certificate of registration.

(d) Requires the board, not later than December 1, 2001, to adopt the rules required under Section 822.111, Health and Safety Code, as added by this Act.